

EXHIBIT 2

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

NICHOLAS C. SMITH-WASHINGTON,) Case No. 3:23-CV-830-VC
JOYCE MAHONEY, JONATHAN AMES,)
MATTHEW HARTZ, and JENNY LEWIS) PLAN OF ALLOCATION
on behalf of themselves and all others,
similarly situated,
Plaintiffs,
vs.
TAXACT, INC., an Iowa corporation,
Defendant.

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PLAN OF ALLOCATION

1. **Definitions.** Unless otherwise defined, terms used in this Plan of Allocation have the same meaning as in the Class Action Settlement Agreement and Release (“Settlement Agreement”).

2. **Non-reversionary common fund.** This is a common fund settlement; there shall be no reversion of the Qualified Settlement Fund to Defendant TaxAct, Inc. (“Defendant”) upon the occurrence of the Effective Date.

3. **No effect on Releases.** This Plan of Allocation does not, and is not intended to, affect the scope of the Released Claims or any other part of the Releases.

4. **Plan of Allocation not a necessary term.** The Plan of Allocation is a matter separate and apart from the proposed Settlement Agreement between Defendant and the Settlement Class Representatives, and any decision by the Court concerning the Plan of Allocation shall not affect the validity or finality of the proposed Settlement Agreement. The Plan of Allocation is not a necessary term of the Settlement Agreement, and it is not a condition of the Settlement Agreement that any particular plan of allocation be approved by the Court. Any order relating solely to the allocation of the Net Settlement Fund among the Authorized Claimants, or any request for further judicial review from any order relating solely thereto, or reversal or modification thereof, shall not operate to terminate the Settlement Agreement.

5. **Distribution to Authorized Claimants.** The Net Settlement Fund shall be allocated to each Authorized Claimant pro rata by reference to the total number of allocation points assigned to all Authorized Claimants. Authorized Claimants will be allocated points according to the Settlement Class or Subclass of which they are a member. If an Authorized Claimant was a member of one Class or a Subclass during a portion of the Class Period and was a member of a different Class or Subclass during a different portion of the Class Period, the Authorized Claimant will be assigned allocation points for the Class or Subclass to which the Authorized Claimant belonged that has the highest number of allocation points. Allocation points shall be assigned as follows: Members of the Nationwide Class are assigned 3 allocation points; Members of the California Subclass are assigned 6 allocation points; Members of the Nationwide Married Filing Jointly Class are assigned 1 allocation point; and Members of the California Married Filing Jointly Subclass are assigned 2 allocation points.

1 6. **Minimum payment.** Notwithstanding Section 5, the Settlement Administrator shall
2 have the discretion, after consulting with Class Counsel, to select an amount for minimum payments to
3 Authorized Claimants, with the goal of ensuring that payments to Authorized Claimants are
4 administratively and economically feasible and that as much of the Net Settlement Fund as possible is
5 actually distributed to Authorized Claimants. The Court shall be informed of the amount of the
6 minimum payment before the Net Settlement Fund is distributed to Authorized Claimants.

7 7. **Unclaimed payments.**

- 8 a. If a payment made according to sections 5-6 and distributed to an Authorized
9 Claimant via a check is not negotiated within ninety (90) days after the Settlement
10 Administrator has contacted, or made reasonable attempts to contact, the
11 Authorized Claimant, the Authorized Claimant shall be deemed to have waived and
12 released their claim for payment under the Settlement Agreement. If an Authorized
13 Claimant reasonably requests that a check be reissued, the Settlement Administrator
14 shall reissue it.
- 15 b. If a check to an Authorized Claimant is returned as undeliverable, the Settlement
16 Administrator shall attempt to obtain a new mailing address for the Authorized
17 Claimant and effect a second mailing. If, after a second mailing, the check is again
18 returned as undeliverable, or if the Settlement Administrator, after reasonable
19 efforts, is unable to determine a second mailing address, there is no obligation to
20 take further efforts to distribute the check, and the Authorized Claimant shall be
21 deemed to have waived and released their claim for payment under the Settlement
22 Agreement.
- 23 c. If a payment is made according to sections 5-6 and distributed to the Authorized
24 Claimant electronically (including via ACH, if such means of payment is made
25 available) and is unable to be processed, the Settlement Administrator shall make
26 reasonable efforts to contact the Authorized Claimant to correct the problem. If the
27 Authorized Claimant does not provide a means of payment within a reasonable
28 amount of time, or provides a means of payment that is unable to be processed,

1 there is no obligation to take further efforts to distribute the payment, and the
2 Authorized Claimant shall be deemed to have waived and released their claim for
3 payment under the Settlement Agreement.

4 8. **Residual funds.** Any portion of the Attorneys' Fees and Expenses Award based on the
5 In-Kind Payment and held back by the Settlement Administrator that is not ultimately distributed as
6 attorneys' fees to Settlement Class Counsel will be distributed to the National Consumer Law Center
7 as *cy pres*. After the process outlined in section 5-7 is completed, there may be funds remaining in the
8 Net Settlement Fund. Any such remaining funds shall be distributed as follows:

- 9 a. If it is administratively and economically feasible to distribute the remaining funds
10 to all Authorized Claimants or some portion thereof, then Class Counsel, in
11 consultation with the Settlement Administrator, shall propose to the Court an
12 equitable method for doing so. Such method of distribution shall be effected if the
13 Court approves (or approves it in modified form).
- 14 b. To the extent there is no distribution of remaining funds according to subsection a
15 of this section, or if funds still remain after distribution according to subsection a of
16 this section, the Parties shall confer and present to the Court a proposal for
17 treatment of the remaining funds. Such proposal shall be effected if the Court
18 approves (or approves it in modified form).

19 9. **Modification of provisions related to unclaimed payments and residual funds.**
20 Should the Parties agree, after final approval of the Settlement Agreement, that the provisions of this
21 Plan of Allocation governing unclaimed payments and residual funds should be modified in the
22 interests of justice, they shall seek the Court's approval for such modification. If the Court approves,
23 the provisions governing unclaimed payments and residual funds shall be effected as modified.

24 10. **In-Kind Payments.** Pursuant to the Parties' Settlement Agreement, all Authorized
25 Claimants will be provided an In-Kind Payment, in an easy-to-redeem format, in the form of TaxAct®
26 Xpert Assist ("Xpert Assist"). Xpert Assist is an add-on feature that TaxAct offers to its customers that
27 provides live advice and assistance from tax experts to customers completing a tax return through
28 TaxAct. TaxAct will provide complimentary Xpert Assist to Authorized Claimants to use in

1 connection with preparing a tax return using any TaxAct online do-it-yourself consumer Form 1040
2 tax return filing product (including TaxAct's free product), applied to tax year 2024. *Id.* Specifically,
3 upon entering their Social Security number into the TaxAct platform, which occurs at the beginning of
4 the tax return form process, Authorized Claimants will receive a pop-up alerting them to their
5 complimentary Xpert Assist and they will be able to add and use Xpert Assist immediately.